App. F. IX-4

1921.

File No. 13 – 21

Previous References (Legis)

Serial Nos. 1

Later References

General and Revenue Secretariat.

A. Collection

Serial Nos. one

manuscript **Part I for** December 1921

SUBJECT

Freight Tax Regulation.

Mamaswamy Iyengar
28-10-21

[illegible] Vol No 13-1921

CONSIGNMENT OF HIS MAJESTY'S [illegible] OF [illegible].

AND INDEX OF THE OFFICIAL GAZETTE OF [illegible].

For December 1921.

Judicial and Legislative (Legislation)

For Collection. Serial No 1

Freight Tax Regulation.

Table of contents.

Serial No	Number and date of letter and contents	Page in Proceedings
1	To the Compiler, [illegible] Gazette. No J 2837 dated 10-12-21. Publishes the Freight Tax Regulation as Regulation No VIII of 1921.	

T V R.

12298

W.D. 369—GBPM—2,500—24-5 19.

Ry. S. 9] 1921.

RAILWAY SECRETARIAT.

NOTES

13 of 21.
Legs File No. 13 of 1921.

FILE HEADING.

Freight Tax Regulation.

~~Levy of surcharge tax as in British India at the rate of 2½ annas per rupee on goods booked from Stations on the lines within the State. (Question III referred to in para 3 of Dewan's memorandum~~

From

No.	dated	Received
Diary No.	Encls.	Spare copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

2106.
6/10/21
P.1.

1/ An extract from the Dewan's Minutes dated 30-9-21 is put up.

Subd.
4/10/21
P 2464

2/ Railway Board's Telgram No 444 T dated 24.9.21 imposing surcharge of 0/2/6 per Rupee of freight and subsequent orders conveying additions and alterations are also put up.

P.S.
5/10

Copy of Freight-Tax Act (No XIII of 1917) is also put up

S.W.U

Now it may be transferred to the Legislature
- First Sheet
for enactment to undertake legislation as an Emergent measure on the lines of British India Freight Tax Act (No XIII of 1917) [illegible]

1/2
7.10.1921

12298

Railway Secretariat. | Legs File No. 13 of 1929.

WD 1680—GPB—8,000—16-8-21

Serial No.

GEN & REV. SECTT.
11 OCT 1921
1524

To Secretary Legislative Deptt. 8/10

4) Bill with a decent bill on the lines of the British Indian Merchant Act - 9/1917 as amended by Act II of 1921. References to Steamers vessels are omitted in the Bill.

5) As the Bill relates to Railways it is enacted provincial powers of the Legislative Council ~~Legislative~~ under S. 12 of the Legislative Regulation, 1917. It can be passed into law under S-ion 3 of the Regn.

Sd S.G.
16/10/21

16/10/21

J.K.S.

1) This question whether the Bill comes under Sec 12; and if it is considered a Railway matter, whether it will apply to our Railways.

2) Secondly: So far as the lines from Bangalore to Mairhair

Railway Secretariat.

WD 1680—GPB—8,000—15.8.21

Legs. File No. 13 of 1924.

Serial No.

to Burmese are concerned, this a point for consideration, whether the latter part of cl 14 of the Mysore Treaty applies to them

3) I will submit this to the member & take instructions, after return to Bangalore. C. Abdul Qadir 17.10.21

9) on a consultation of the question with the IInd & IIIrd members, I was directed to consult the Rly Secty on certain points, and accordingly, after the draft Qadir 29.10.21

10) I consulted Mr P.S. Naidu & the Rly Secty. After going through certain details, 12 Am tomorrow has been fixed for a further consultation Qadir 1.11.21

10) On a consultation with Mr P.S. Naidu, and on going through the Railway files connected with Surcharge, it is found that it is to remain in force for a short time only — viz the April 1922, pending a general increase in tariff rates.

WD 1630—GPB—3,000—15-3-21

Serial No.

It is also found that the tax is already being levied in stations on our own line, on goods booked from here to stations outside the State & vice versa. The collection however does not come to our coffers, and a representation has been made that an amount proportionate to the distance in our own line is due to us.

11) It is thus necessary to legislate for the levy of the tax on goods booked from one station to another within the State only, whether the goods are carried by our own line or by the M.S. & M.Ry. This takes it out of cl 14 of the Mysore Treaty & we have power to levy the tax. It is however necessary to arrange with the M.S. & M.Ry authorities to arrange for collection of the tax on the line worked by them viz) between Bangalore & Hariher & Bangalore & Hindupur.

12) The Railway Secrett has asked for permission or rather has asked the Residency whether there would be any objection to the levy in the State. As the matter does not come under Art 18 of the Mysore Treaty, such permission does not appear to be necessary

13) The rules framed by the Govt..

Railway Secretariat. | Leg. File No. 13 of 192 |

WD 1680—GPR—8,000—15-8-21

Serial No.	
	and the notifica... + circulars issued by the Companies are also collected + put up. Provisions relating to vessels are omitted.
	14) As the matter refers to Railways this it need not be placed before the Leg: Council + may be passed at once, unless
2784 6/11	15, even if this should be placed before submitted
	the council. (Leg 3rd member) DJ C. Abercairn 4.11.21
	15) The Foreign Railway and Inland Steam Vessel Act 1917, was extended myself as a War measure - under Schedule I of that Act this rules of evidence & forms were one pie on coal, coal + fuel wood and two pies on all other goods. By Act VI 1921 Section 4, this Schedule mentioned above has been amended & the rates fixed are two & half annas per rupee of freight payable. This Amending Act is to be in force till the 31st of March, and after the expiry of this period, the original rates will come into force again. The Admiralty Steam branch will be consulted whether in this case the Repealed Act or the Amending rules are to be retained.

G. R. S. III-21

General and Revenue Secretariat.

Legi File No. 13 of 19 21

Serial No.

16) As regards the question whether the proposed measure is excepted from the operation of the L.C. Regulation, the proviso to Section 12 says that measures dispensing Railway & Canal Rates within the limits shall not be considered by the Council. The question whether the proposed measure affects the Railways. It seems that it does not. This is a purely fiscal measure and by the nature of the measure the Regulation does not appear to affect Railways. The measure which is excluded from the operation of the L.C. Regulation. I think the measure affecting the collection, mode & control of Railway rates matters coming within the purview of the Railway Regulation. The first Proviso & the Proviso may be cancelled.

Sd/-
12/11/21

Those subjects of the 1st Member the measure appears to me

(1st Member) Sd/-

Carry. 12.11.21

276/12/11

NOTE—Contn. sheet.

[G. R. S. III-2]

1574

General and Revenue Secretariat.

Legs File No. 15739/13 of 1924

Serial No.

Noday

Gt may be marked
under Gt

Y AR Brown
14.11

U.O. no 14-21.
dy 14-11-21.

2. NOV 1921

1) Forwarded, with compliments, to the Govt. Advocate, for favour of opinion.

R Ramaswamy
Jnt Secy to Govt
14.11.21.

2) I respectfully agree with the note above. The proposed legislation is not, as I understand it, by way of amending the Mysore Railways Regulation V of 1904 or it by way of making any alteration in the 'rails' and 'Terminals' as defined in S. 2. Clauses 13 + 14 of the Regn.

The words "any measure affecting Railways" occurring in S. 12(9) of the Mysore Legislative Council Regulation I of 1907 must I think be interpreted to mean "any measure immediately affecting Railways" that is affecting the Construction, maintance working and administration of the Railways directly and cannot include all measures which may have any kind of a bearing on Railways however remote the connection may be

3) Dr Venkatarangaiya's opinion is the Honourable

Serial No.

East India Company reported in 1 Strange Notes of Cases page 153, the expression "matters Concerning Revenue" was interpreted to mean "matters immediately concerning Revenue" the Court rejected the contention that the expression would include any matter if it have such a tendency only, though but remote and consequential.

23) Somewhat similar restrictions are found in the Government of India Act. Sir Courtney Ilbert in his book "the Government of India" p 248 (3rd Edn) points out

"Among the Acts which a Local Legislature cannot "affect" is the Indian High Courts Act 1861 and consequently questions have arisen as to the validity of laws affecting the jurisdiction of the Chartered High Courts. It has been held that the Governor of Bombay in Council has power to pass Acts limiting or regulating the jurisdiction of the Courts established by the Local Legislature, and that such Acts are not void merely because their indirect effect may be to increase or diminish the occasions for the exercise of the Appellate jurisdiction of the High Court (Premshanker Rajmanikya

G. R. S. III-2

General and Revenue Secretariat.

Leg/3 File No. 15/24 of 1924.

Serial No.

Government of Bombay - 8 Bom. H.C.R. A.C. 195)".

(4). It appears to me therefore that it would not be unlawful for the Mysore Legislative Council to consider such a measure as the one now proposed.

19.11.24.

Asstt. Adv.

3017 21/11/24

(3rd member) cur 21.11.24

(5) May be invited to the next meeting of the Council

Asstt. Secy. 22/11/24

(Ch Secy) cur 22.11

NOTE—Contn. sheet.

the next
(For Disposal at a Meeting)

No. C.226 (1

.....1921-22.

GENERAL AND REVENUE SECRET

Council Matter.

SUBJECT.
(Clause xii of the schedule).

Levy of surcharge on railway earnings and legislation to enforce it.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Chief Secretary to Government.

.....16th November....19.21.

Extraordinary Member of Council. Seen. 20.11.21

First Member of Council. Seen.

2837-2. 15.11.21. **Second Member of Council.** Opinion recorded 15.11.21

2950 16.11.21 **Third Member of Council.** 17/11

Extract from the Proceedings of the 589th *Meeting of the Council of His Highness the Maharaja, held at Bangalore on the* 24th November 1921. *19* .

12. Subject. - Clause 11 of the schedule

Levy of surcharge on forestry carriage and legislation to enforce it.

Opinion of the Council.

The Bill may be passed as an Emergency Regulation for six months.

(Signed) M. Kantaraj Urs,
Dewan of Mysore.

"EXTRACT"

Chief Secretary to Government.

WD 1471—GPB—2,000—1-3-21

C 226

12

General and Revenue Secretariat. | File No. | of 1921-22.

Serial No.

Submitted with Extract of the Council Resolution.

First Member)

Submitted with D.S.N. (draft and fair)

Dewan)

Final Note by the First Member of Council.

Subject:—

Levy of surcharge on railway earnings and legislation to enforce it.

With effect from the 1st April 1917, the Government of India imposed a tax on rail-borne goods in the form of a surcharge of 1 pie per maund on coal, coke and firewood and 2 pies per maund on all other goods carried for any distance in excess of 10 miles -- between any two stations situated in British India. This charge was also levied on all consignments originating at stations in - British India and terminating at stations in Indian States or --- Foreign Territories in India, or originating at stations in Indian States or Foreign territories in India and terminating at stations in Btitish India. It was not levied between two stations in an Indian State or a Foreign territory in India. It was also levied on goods consigned from an Indian State or a Foreign territory to an Indian State or Foreign territory that passed through British territory on part of the journey.

2. This surcharge was introduced as a war measure in aid of the general revenues of the Government of India. The amount collected at stations on the Mysore Railways from 1st April 1917 to the end of March 1921 only amounted to Rs. 28,694. For this, the Mysore ~~Government~~ Railways received ½ per cent or Rs. 138/- as - remuneration and the balance of Rs. 27,556 was credited to the - Government of India.

3. With effect from the 1st April 1921, the Government of India, under their Freight Tax Act, substituted in place of the - above tax a surcharge of 2½ annas per rupee of freight on all -- goods except grain and pulses, firewood and fodder. Traffic ex-

exempted from the first tax continues to be exempted under this tax, but it is leviable for all distances and the exemption for traffic carried 10 miles or under has been withdrawn. On receipt of this information, this Government addressed the Government of India in a letter dated the 14th April 1921 stating that it was understood that this sur-tax had been introduced as a special measure pending a general increase in goods rates then under consideration by the Railway Board. It was pointed out that the enhanced working expenses and other causes that compelled the Government of India to take steps to increase the revenue received from railways in British India have had the same detrimental effect on the finances of this State and that unless a share of the surcharge is credited to the State no relief will be obtained until rates are increased and the surcharge is abolished. We have asked that the proper proportionate share of any surcharge levied on goods carried on railways within the State should be credited to the State and not the general revenues of the Government of India and the matter still awaits disposal although it was brought to the notice of of Mr. Bell, Member of the Railway Board when he was here last July, and the Government of India have been reminded.

4. Meanwhile, pending a general enhancement of rates throughout India, investigations were made with a view to increase rates for local booking on the Mysore Railways but as this involved the preparation of new schedules and the co-operation of the Madras and Southern Mahratta Railway Company and as it had been decided by all the railways in India to introduce the enhanced rates from the 1st October 1921, this proposal was dropped and arrangements were made to publish the new enhanced rates that had been recommended by a Committee of the Indian Railway Conference Association. Before this could be done, a telegram was received saying that the revised classification will not have effect until April 1922. The question of increasing the rates was again taken up but as the Agent of the Madras and Southern Maharatta Railway Company considered it objectionable to quote higher rates on the Mysore

State Railways worked by his administration and as our Agent estimated that to raise the rates on local booking between stations on the Mysore Railways worked by the State would entail considerable time and labour and was not likely to give an increased return of more than Rs. 900 a month, and as he is of opinion that the surcharge if levied on traffic from one station to another within the State taking the State as a whole, may amount to ~~xx~~ about Rs. 10,000 a month it is considered desirable to take urgent action to introduce a bill on the same lines as the Indian Freight Act that will enable a surtax similar to that now enforced in British India to be levied within the State for the benefit of the State's revenues. As this surtax would not involve a change in the authorized rates and classification, its introduction on the Mysore State Railways worked by the Madras and Southern Maharatta Railway Company would not appear to be in any way against the condition in the contracts between the Secretary of State and the Company but in case there should be any difficulty, the Government of India have been informed in a letter dated the 1st November 1921 of the intention of this Government to levy the surcharge and have been asked to reply at once if they have any objection.

31) 5. The question of enforcing the levy of surcharge on railway earnings was considered in Council on the 24th November 1921 and it was resolved that the bill framed for the purpose, may, under the emergency section of the Legislative Council Regulation, be passed into Law.

32) 6. It may be asked why this matter was not brought up before the last meeting of the Legislative Council. In answer, it has to be submitted as follows:-

A Government Order in accordance with the orders of His Highness was issued on 8th July 1921 sanctioning enhanced rates of terminal charges on goods in both local and through booking with effect from 1st ~~February~~ October 1921. In the meantime, the Agent reported that the Railway Board have postponed the introduction of the revised classi-

classification till April 1922 and enquired if the Government Order above referred to might be held in abeyance over the State Railway in local booking until all the other railways adopted the enhanced rates generally. A Government Order was accordingly issued to hold the enhancement of rates in abeyance until further orders.

In the meantime, the Agent, brought to the notice of Government that the enhancement of rates in local booking only would in many cases lead to diversion of traffic without any benefit to the State unless the Madras and Southern Maharatta Railway could be induced to raise their rates also so far as booking locally between two stations in the State was concerned. The position was rather a curious one in that no surcharge is being charged for bookings between stations within the Mysore State whether one or both are on the system worked by the State or by the Madras and Southern Mahratta Railway. Surcharge is being levied on all bookings between stations situated within the State and outside it, no matter what railway they are on. There was a lot of correspondence and discussion on the question leading to the Dewan's minute of the 30th September in which he remarked that legislation should have been resorted to already and enquiring why it was not done,

33) 7. When the papers came up to me with the explanation of the Railway Secretariat, I recorded the following minutes-

"I am even now not quite clear why rates could not be enhanced within the State in persuance of the Government Order issued with His Highness' approval on 8th July 1921 and what the difficulty was.

"I should like to discuss the whole case with the Railway Secretary and Agent in Mysore after the 10th.

"The question of legislation may in the meantime be sent to the Legislative Branch for immediate action with extracts from Dewan's orders".

8. When the question of the bill was referred to the Legislative Department, they had some discussion amongst themselves and when the agenda for the last meeting was brought up I raised the question about

this bill. There was, however, some doubt as the notes show whether the bill was excluded from the purivew of the Legislative Council. The Government Advocate who was consulted is of the opinion that the bill being a fiscal measure, it has to be passed under the Legislative Council Regilation.

9. As it is already too late and every day's delay means loss of revenue to the State, there is no time now to go through all the legislative formalities to pass this measure.

10. Under these circumstances, the resolution of the Council proposing to pass the bill as an emergency measure for six months under Section 15 of the Legislative Council Regulation, may be graciously approved.

Bangalore,
30th November 1921.

MEMBER OF COUNCIL.

G. R. S. IV—6]

Submitted to His Highness.

37) *I submit herewith a Final Note by the*.....First.....
Member of Council on the subject of...levy of surcharge
on railway earnings and legislation to enforce it,
.....
for His Highness' gracious approval.

Dewan.

1st Dec
1921

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Levy of surcharge on railway earnings and legislation to enforce it.

H.H. No. 411
1.12.21.

Order.

~~KRW~~
4/12/21

6.12.21

G. R. S. III-2.

General and Revenue Secretariat.

1524

Legs File No. 9/13 of 1924

70

Serial No.

41) Drafts pasted
DD
Dispatch.

42) Copy of the Notification (to be published in a Gazette Extraordinary) together with text of the Bill as finally passed is appended.

43) A letter of the Bombay Government intimating is also Submitted for Approval.

44) In Railway Secretary's letter No 1365 of 1st Inst we were asked if the Govt of India had any objn to the measure Mr. Sassoon might be Communicated at the Earliest possible date and we have also informed them that ~~if objections~~ legislative steps would be taken to levy the tax ~~if~~ unless objn was Communicated. So far as this Secrett is aware no reply has been received.

45) After promulgation of the Bill the file will be Sent to the Rly Secy for issuing the necessary orders.

S. H.
1/12/24.

In enquiry, this Secretariat no reply is received in the Railway Secrett also.
cay
7.12

3273
S. 12

3rd Member of Council

44) Letter
cay
7.12

45) Orders issued
9.12.24

Issue above A.S. to Govt of India
Carefully drafts
cay 8/12

Please see for approval
cay 9/12

OFFICE
NOTE—Contn. sheet.
3230

G. R. S. III-2)

General and Revenue Secretariat.

Legs File No. 13 of 1924

Serial No.	
1.	To the comptroller has corrected No J.2837 of 10.12.24 Publications Freight Tariff Rates as Regn. VIII of 1921.
2.	To the secy to the Railway Board No Pol 506/Genl. of 10.12.24 Forwards for information a copy of the above Regn. The file may be sent to the Reg. Sectt. for issue of further action if any is necessary & rules etc. & for return of the Legs file, after work done
	Approved the file will be sent to the Railway Sectt, for immediate issue of rules, regarding levy & collection of the tax. Rates in force in Br. India, are collected & kept in the file. (Gen Secy)
	Yr, Hon — Advce
	forwarded with compts, to the Reg Sectt for necessary action)

NOTE—Contn. sheet.

No 9. 2837/E...

Regs 13-12-21
Sl. 1.22

EJ 10-12-21

Whipcords

To be Commissioner, Mysore

Under Section 15 of the Mysore Legislative Council Regulations, 1907, the accompanying Regulations entitled "The Freight (Railway Fare) Regulations" which received the assent of His Highness the Maharaja on the 4th December 1921 is published for general information.

Regulations No 7 of 1921

By order

Secretary

To the Superintendent, Government Press, Mysore

with a Gazette Set

for publication in Part IV-B of the Fifth Supplement to the Mysore Gazette dated 29th December 1921

200 Spare Copies

250 in Kannada

200 English

1 Manuscript

REGULATION VIII OF 1921.

(Received the assent of His Highness the Maharaja on the 4th day of December 1921).

*****

A Regulation to impose a Tax on goods carried by Railway. (Passed as an Emergency Regulation under Sec 15 of the Mysore Legislative Council Regn, 19

Whereas it is expedient to impose a tax on goods carried within Mysore by railway; His Highness the Maharaja is pleased to enact as follows :--

Short title & Commencement

1. (1) This Regulation may be called the Freight (Railway) Tax Regulation, 1921.

(2) It shall come into force at once.

Definitions :-

2. In this Regulation

the expression 'administration' has the meaning attributed to it by the Mysore Railway Regulation, 1894.

'Prescribed' means prescribed by rules made under this Regulation.

Levy of Railway tax on goods carried by Railway.

3. (1) Subject to the provisions of this Regulation, there shall be levied and collected on goods carried by any railway in Mysore from one station to another within Mysore, a tax at the rate specified in that behalf in the Schedule.

(2) The tax imposed by sub-section (1) shall be collected by means of a surcharge on freight, by the administration of the railway by which the goods are carried, and shall be paid to the prescribed authority in the prescribed manner within the prescribed time, after making such deduction as may be prescribed to meet any expenses incurred in connection with the collection of the tax.

Power to make rules

4. (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes

Rule making power.

of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules --

(a) regulating the collection of the tax imposed by this Regulation and providing for the authority to which, and the time and manner in which, such tax shall be paid.

(b) providing for any other matter which by this Regulation is to be prescribed.

Power to exempt goods or class of goods from the whole of the Regulation.

5. The Government may, by notification in the official Gazette, exempt, either in whole or in part and either absolutely or subject to such conditions as may be prescribed, any goods or class of goods from the tax imposed under this Regulation.

S C H E D U L E.

(See Section 3).

1	2	3
Goods.	Unit or method of taxation.	Rate of tax.
All goods (including goods carried by coaching traffic) other than food grains and pulses firewood and fodder.	Per rupee of net freight payable.	Two and a half annas.

9-12-21

Cur 9-12

CP.

NOTIFICATION.

No. J. 2837—Enc., dated 10th Decem

Under Section 15 of the Mysore Legislative Council Regulation, 1907, the accompanying Regulation entitled "The Freight (Railway) Tax Regulation", Regulation VIII of 1921, which received the assent of His Highness the Maharaja on the 4th December 1921, is published for general information.

By Order,
S. HIRIANNAIYA,
Secretary to Government,
General Department.

REGULATION VIII OF 1921.

Received the assent of His Highness the Maharaja on the 4th day of December 1921.

A Regulation to impose a Tax on goods carried by Railway.

(Passed as an Emergency Regulation under Section 15 *of the Mysore Legislative Council Regulation,* 1907.*)*

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3. (1) Subject to the provisions of this Regulation, there shall be levied and collected on goods carried by any railway in Mysore from one station to another within Mysore, a tax at the rate specified in that behalf in the Schedule.

(2) The tax imposed by sub-section (1) shall be collected by means of a surcharge on freight, by the administration of the railway by which the goods are carried, and shall be paid to the prescribed authority in the prescribed manner within the prescribed time, after making such deduction as may be prescribed to meet any expenses incurred in connection with the collection of the tax.

Power to make rules.

4. (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) regulating the collection of the tax imposed by this Regulation and providing for the authority to which, and the time and the manner in which, such tax shall be paid,

(b) providing for any other matter, which by this Regulation is to be prescribed.

Power to exempt goods or class of goods from the operation of the Regulation.

5. The Government may, by notification in the official Gazette, exempt, either in whole or in part and either absolutely or subject to such conditions as may be prescribed any goods or class of goods from the tax imposed under this Regulation.

SCHEDULE.

(*See Section* 3.)

1	2	3
Goods	Unit or method of taxation	Rate of tax
All goods (including goods carried by coaching traffic) other than food grains and pulses, firewood and fodder	Per rupee of net freight payable	Two and a half annas

M. KANTARAJ URS,
Dewan.

G. R. S. VI—G/321

SUBJECT.....

.....

.....

Diary No. of letter replied to——

Section Legal
File No. 13-21
Serial No. 2

General and Revenue Secretariat
( )
, the 191 .

No. Pol 5106 Cell

To
The Secy/- the Divisional

Date of issue 10th Dec 1924

Signed by W. S. Hirimandalay

In continuation
of Railway Secy's
letter no 1365 D/1-11-24
on the subject of
the issue of a Guarantee
on railway Receipt
I am directed to
forward herewith
for information a
copy of the Tms

over.